Legal Decisions, Affective Justice, and 'Moving On?'[*]

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Abstract

Our paper argues that a move away from the linear approach adopted in transitional justice scholarship is required to the question of 'moving on', or the way in which a post-dictatorial or a post-conflict regime addresses the past injustices of the predecessor regime. We consider this question in relation to two important case studies that on the surface do not seem to be connected at all: post-dictatorial Albania and post-conflict Sierra Leone. Both examples point to important factors that underpin the meanings of 'moving on' and of justice, when analysed though a law and aesthetics lens. It has long been established that legal scholarship that makes use of works of art aids and clarifies the points that it wants to make. We examine the power of certain art forms, namely the way in which space 'speaks' and the narratives found in an image in the Albanian context and the use of film to provide a deeper appreciation of the conflict in the Sierra Leonean context. Different aesthetic practices have been used as a way to respond to historical injustice and mass atrocity, also when partial justice (through the law) has been achieved. Our article argues that law's limitations can be overcome by a turn to affective justice.

Keywords: affective justice, law and aesthetics, Albania, Sierra Leone

Brief overview

Law has always possessed a visual dimension and understood the significance of regulating images in order to support societal bonds (Douzinas and Neal 1999, p. 9). More broadly, law has been understood as a performative language. As a mode of communication and expression, both 'legal practice and legal education have always consciously and unconsciously understood this' (Ibid, p. 10). It seems natural, therefore, to turn to art forms that permit another language in which to consider the key terms that underpin the unresolved legal questions concerning 'moving on'. In fact, the aims of law and of art are not entirely dissimilar, '[t]reating the law as literature brings to the surface and highlights the type of life and the form of soul that the institution constructs and tries to capture' (Ibid). This performative dimension of the law points to the importance of the relationship between law and art. The recognition of what is captured shows that law's limitations can be overcome. These limitations arise in discussions about the crimes of the past. It has long been established that legal scholarship that makes use of works of art aids and clarifies the points that it wants to make (Douglas-Scott 2013, pp. 4-5).

The way in which a post-dictatorial or a post-conflict regime addresses past injustices is normally addressed in the field of transitional justice.[i] A break with the linear approach adopted by most transitional justice scholarship serves to unsettle its entrenched narratives and offers depth, complexity, or 'affective justice' (Rush 2014, p. vii). In other words, if the law leads to accountability and politics to reconciliation, then affective justice is the sense that justice has been done (which we understand as part of the process of 'moving on'). The process of 'moving on' involves a variety of actors, beginning with victims and perpetrators and extending to the wider society.

All of these individuals face the history of atrocities, the legacy of dictatorship or conflict, and most likely have varying ideas about how to approach the future. This makes the process of 'moving on' intersubjective and complex. 'Moving on' can be a cathartic release as a result of airing the past, but it can also be experienced as an enduring event that forms an important step towards building a robust state and society (Hite, Collins, and Joignant 2013, pp. 1-3). As noted above, most studies in the area follow a linear approach, which might not capture the nuances of this difficult and complex process. Performative inquiry appeals as it offers the opportunity to take advantage of the integrative and enduring potential that underlies 'moving on', allowing for accessibility, engagement, and participatory dimensions. This, in turn, provides for a critical emancipatory potential in its format. This sort of interrogation, which has been tested by social scientists and humanities scholars alike (Bell 2014; Rush and Simić 2014), can engage, enlighten and evoke participation and response that can complement if not illuminate the law's role in specific discourses. However, owing to the intricacies surrounding the nature of the crime, perpetrators, and victims, this is very hard to achieve.

Ariel Dorfman's play, 'Death and the Maiden' illustrates the power of performative inquiry. The significance of Dorfman's play is the context and the timing, the year 1991 (McAuliffe 2012), when Chile's nascent democracy (and still quasi-authoritarian regime) was looking at how to address the serious human rights violations of the Pinochet regime (Kritz 1995, p. 102). 'Dorfman seems to acknowledge the futility of justice for victims in the face of unspeakable brutality…[t]hroughout the drama, Paulina [the victim] articulates her dissatisfaction at the compromises of transition'(McAuliffe 2012, p. 88). In this play, the playwright demonstrates that

the optimism of transitional justice, in providing a variety of options for the

transformation of society from dictatorship to democracy has been replaced by

a more humbling vision that recognises that there exists no universal toolkit

that can on its own create such a move (Ibid, p. 91).

In other words, recognition of the peculiarities of context and the intersubjective

nature of the process of 'moving on' can overcome law's limitations. The specificities

at play overlap and form a sort of fabric on which we can set out clues in an attempt

to answer questions pertaining to justice and past crimes. Because law is a 'creature of

culture', 'art may function in a role of rescue and deliverance of [the] law' (Ibid).

Similarly, affective justice can assist us to re-evaluate transitional justice by

turning its approach and lexicon in the direction of artistic practices and their

discourses of aesthetic judgment...After atrocity, the disputes of transitional

justice can only be mediated by history and by visceral notions of personal and

collective responsibility. We could think of this as affective justice - not so

much an emotion, as a bodily feeling, a corporeal sonority, a rhythm that

places our bodies on the line, [and] an obligation that haunts and unsettles the

narratives of transitional justice. It is the justice, beyond all visions of right

and good ... [that survivors who turn to art hear] (Rush 2014, p. vii).

The theoretical underpinnings of the aesthetics at play need continual, critical re-

evaluation. In an effort to contribute to the scholarship on the subject, our analysis

begins with a closer examination of selected aesthetic encounters pertaining to our

specific case studies that we feel serve to explain what underpins the question of

'moving on'.

Our choice of art forms, namely space, images and film, and how they operate

in the Albanian and Sierra Leonean cultural and legal contexts, respectively,

demonstrates that connections can be made across continents when dealing with how a state considers the options for its transformation. Central to both case studies, in terms of pursued criminal prosecutions and managed 'story telling' (Osiel 1997, pp. 114-115) (i.e. passive in Albania and proactive in Sierra Leone) relates to the ownership of stories and who and/or what is controlling the master narrative of the past.

Albania

Albania is relevant owing to its peculiar communist history. At the start of the 1900s, Albania's political culture was extremely underdeveloped with little experience with democracy, opposition or debate. In 1944, with the end of WWII near, the National Liberation movement, under the guidance of the future communist leader, Enver Hoxha, consolidated its power with the assistance of execution squads that eliminated opposition members. Albanian communism was highly centralised and the communists dominated all aspects of life. The key instrument of power was the vast secret police network, the *Sigurimi*, created in 1943. Unlike its communist counterparts, such as Poland or Czechoslovakia, where dissidents were able to draw on support networks not just within the communist bloc but from the West as well, Albania was a closed society within a totalitarian state (Austin and Ellison 2008, p. 179). This makes twentieth-century Albania one of the most important examples of a European dictatorship. Albanian intellectuals in exile write that the country

> could perhaps pardon communism many crimes, but not that of having deprived her of her sons' energy of mind and spirit, a nation's most valuable capital. And when one further considers that Albania is not a nation with an abundance of intellectuals, one can more sensibly evaluate her loss (Pipa 1990, p. 25).

The timeline for transitional justice measures, starting in 1985 with Hoxha's death, is arguably anachronistic. Ramiz Alia assumed the country's leadership. In 1991 the country held its first free election. Alia's regime marked a thaw in the repression that characterised governmental rule up to that point, but Alia did little to dismantle the cult of personality and legacy of the Hoxha regime. Without an attack on Hoxha's legacy and policies there were hardly any conditions on which to pursue issues relating to 'moving on' effectively. His views were demonstrated in the following anecdote: when Alia was imprisoned in the 1990s his prison guard told him that for most of his adult life under the former regime he had been a political prisoner. Alia replied, "But you broke the law, and you knew that." (Austin and Ellison 2008, p. 196). Albania has countless reasons to address the crimes of the past.

Albania successfully prosecuted its communist elite in the early 1990s, not for crimes against humanity or genocide, but for committing economic crimes, which in one sense trivialised the serious human rights transgressions of the regime. One of the most controversial developments in the pursuit of prosecuting members of the communist party elite was the release of the Ruli Report that catalogued the excesses of the Hoxha family, down to the consumption of meat (Austin and Ellison 2008, p. 182). Subsequent attempts at addressing the past have been half-hearted, politically driven and vague. Alia's assertion above can be contrasted with and considered in the context of former Democratic Party President Sali Berisha's contention that the past should be left with historians, and that all were guilty, all jointly suffered (Ibid). This point was made during a time when calls for justice were strong, but measures that were taken were highly politicised. Berisha's approach to the past is largely reflected in contemporary initiatives dealing with the past.

Based on fieldwork in Albania in 2012, 2013 and 2015, Fijalkowski was confronted with images from certain trials, which featured prominently in several key initiatives that we can refer to as 'transitional justice initiatives', as they deal with the injustices of the former regime. The first refers to the work of The Institute for the Studies of Communist Crimes (ISCC), created in 2010 by parliament, which carries out research on communist crimes (but has left open the possibility for criminal prosecution). The ISCC was reformed in 2013, with the election of the Socialist Party, and its remit seemingly more concentrated on gathering historical facts. On the other hand, the ISCC has more resources to pursue research on communist history, as well as to draft a less politicised screening of high-ranking government officials within the wider context of lustration. What this means in practice is unclear. Another initiative concerns the permanent exhibit at Tirana's National History Museum on the 'Genocide of the Albanian Intellectual', and its subsequent publications, including a catalogue of 'Communist Terror in Albania'. The research carried out at the ISCC and the exhibit provides valuable evidence about key events and identifies the victims and the perpetrators, which include the judicial officials adjudicating in show trials and involved in maladministration of justice (Tufa 2011).[ii] But it has not resulted in criminal prosecutions as hoped for by victims who continue to meet perpetrators in the street. This is far from other efforts where story telling has been recognised as reaffirming a commitment to the law or in relation to finding a more coherent way to manage memories (McNamee 2009). Indeed the presentation of the photographs in the exhibition and catalogue is self-explanatory and self-evidential. The context that is provided is through the narration of titles of the exhibit and publication. But the narration does not encourage questions that might ask how and why such atrocities occurred. The use of the word 'martyr' in relation to some victims identifies

prominent victims only. Overall there is an absence of a wider, coherent narrative of the political present that always requires the archive imperative to 'record past political injustices, reveal them to the re-emerging public and organise them as a reminder for future generations' (Přibán 2007, p. 146). The archive imperative strategy, the goal of which is to judge and condemn the past regime by other than criminal legal means, is a reflection of the legal and political visions of the post-dictatorial and/or post-conflict state (Ibid).

The current government also has created a historical commission to issue a report on the dictatorship.[iii] In January 2015, the Prime Minister announced the opening of a museum named 'The House of Leaves'. It is found at the venue of the former *Sigurimi* headquarters in Tirana. The idea is to have a museum showing the history of surveillance in the country. The concept is motivated by German approaches to memorialisation (Illyria News 2015). On the heels of the museum initiative was the promulgation of a recent bill permitting individuals to access their *Sigurimi* files. The law was passed by parliament in April 2015. The Socialist Party led the majority vote, with assistance from smaller parties. The German model inspired the measures concerning access to the secret police files (Illyria News 2015). There is very little information about these recent measures. To date, the most far-reaching attempt at addressing the injustices of the Hoxha regime are encapsulated in the Ruli Report, in contrast to the limited efforts at prosecutions under the other laws, such as the Genocide Law. The 1995 Genocide Law, aimed to expedite prosecutions for the crime, resulted in the arrest of several members of the former communist elite, but really functioned as a screening law, which did not 'effectively lustrate and was superfluous to genocide persecutions' (Austin and Ellison 208, p. 186). The archive imperative measures have only been partially successful in setting out accounts of the

past. Albania's response departs from broader practices of memorialisation that have been taking place in post-communist Europe since 1989. For many of these states, Germany's approach to the past, or *Vergangenheitsbewältigung*, is a model. Its appeal lies in its philosophy: an attempt to analyse, to digest and to live with the past, bringing the various discourses to the public to debate. In addition to allowing space for cultural and pedagogical measures and initiatives, the German approach to the archive imperative goes far beyond the symbolic; from the start there was political will and support for pursuing the criminal prosecution of crimes committed by the previous regime (Přibán, pp. 161-162). This is not the space to critique the German experience, which is not without problems. But its basis is sound, and it is this unified approach and political will that are missing features in Albania.

Sierra Leone

Owing to diversity along a multiplicity of configurations (Harris 2013), Sierra Leone largely defies overarching cultural definitions and statements. The complexity of Sierra Leonean history and culture is key to understanding both the 1991-2002 Civil War and the subsequent efforts to achieve peace, justice and reconciliation. Some aspects of this complexity permeate societal differences in a way that make them worth emphasising – notably strong patrimonial (Ibid) and generational (Stovel 2010) power hierarchies entrenched through both formal and informal norms and practices, as well as complex networks of dependency systems underpinning societal functioning (Ferme 2001, pp. 106-107). Achieving a sense of justice and 'moving on' after a conflict characterised by widespread use of child soldiers and systematic destruction of familial structures across regions and ethnic groups, need to be considered within this particular context. Up until independence,[iv] Sierra Leone's

diverse population largely coexisted peacefully across ethnic, cultural and religious differences (Hirsch 2001 p. 24). After 1961 however, intergroup relations became part of political power plays by various actors (Ibid).

In 1991, an invasion by the paramilitary rebel movement Revolutionary United Front (RUF) marked the start of an eleven year long civil war that was exceptionally brutal (Coulter 2008, p. 58) and characterised by its sporadic but extreme violence (Millar 2012, p. 132). The RUF had its roots in student politics, and had ideological visions that influenced the organisation's activities up until the mid-1990s. However, it was not the organisation's political agenda that became the hallmark of the civil war but its resort to extreme violence in pursuit of power. Widespread use of child soldiers and amputations of limbs as military strategy are perhaps the conflict's most widely known features. All military factions were responsible for an array of war crimes (Coulter 2008, p. 58), including the use of child soldiers (Witness to Truth 2004, p. 260), but most of the atrocities were committed by the rebels (Shepler 2014, p. 138). As their popular support gradually diminished, civilian terror became a key military strategy for the RUF to press for negotiating power. Similarly, as the access to volunteer fighters dried up, they relied on the abduction and forced initiation of children to maintain military forces (Stovel 2010, p. 93). Whereas the children fighting for the anti-RUF militia Civil Defence Force (CDF) were commonly volunteer soldiers who enjoyed the support of families and local communities (Archibald and Richards 2002, p. 345; Witness to Truth 2004, p. 260), the situation was radically different for the majority of children in the RUF (Stovel 2010, p. 155). The initiation into RUF forces included children having to witness or partake in atrocities against their own families, which made it extremely difficult for them to return to their local communities at the end of the war

(Waschefort 2010, p. 190). By destroying the children's familial and social structures, the RUF sought to create new bonds of loyalty and dependency to the organisation (Stovel 2010, p. 94). Harsh military training and extensive drug use typically followed the initial trauma of abduction, and facilitated a transformation of the children into ruthless fighters (Ibid).

Throughout the conflict, all warring factions were guilty of torture, mutilations, killings, and sexual violence (Ibid). In particular, however, the RUF was responsible for widespread atrocities against civilians, including campaigns of amputation of hands and feet (Coulter 2008, p. 58). The amputations effectively undermined people's ability to sustain themselves, which in turn had implications for post-war reconstruction. The societal effect of the mutilations can be understood within Maria Berghs' (2013) notion of a decline in 'distinct battlefields' in current conflicts, which in Sierra Leone, like in other recent conflicts, was expressed through the strategic targeting of civilian structures and bodies (p. 1400). The body in Berghs' perspective, is consequently transformed into a currency of power (Ibid). In Sierra Leone, the mutilations contributed to a reversal of patrimonial power structures by targeting the labouring body, thus inverting dependency relations (Ibid). Widespread sexual violence similarly targeted society's reproductive capacity as symbolised by the female body (Ibid). Like crimes of mutilation, sexual violence can be seen as undermining patrimonial power in a culture where access to dependents, notably through taking wives to bear children, is a largely male power and social currency (Ferme 2001, p. 172; Stovel 2010, p. 136). In Sierra Leone, adult identities are highly gendered and tied to 'one's reproductive and productive capacity and actions' (Berghs 2011, p. 1401). The atrocities committed during the war facilitated a reversal of these identities through subjecting men and women to new forms of dependency as their

bodies, the symbolic sites of adulthood, were disabled. Replacing the patrimonial system with egalitarianism was indeed part of RUF's ideological vision (Abraham 2000, p. 16). And although ideology became less and less important to RUF activity, their specific techniques of violence continued to effectively target the core of Sierra Leone's social infrastructure in an attempt to challenge existing power structures and gain political influence. The societal damage was substantial and when violence finally ended in 2001, post-conflict reconstruction had to accommodate this new social reality.

At the end of the war, three factors importantly influenced which transitional justice measures were employed. First was the domestic political climate towards the end and in the immediate aftermath of the war, which was open to international influence and assistance, as evidenced through the Sierra Leonean government's initiative to establish a criminal tribunal in collaboration with the United Nations (UN) (Schabas 2006, pp. 36-37). Second was the international community's growing awareness of transitional justice as a field of knowledge and policy. From the late 1980s and onward, the field of transitional justice grew out of 'a set of interactions among human rights activists, lawyers and legal scholars, policymakers, journalists, donors, and comparative politics experts concerned with human rights and the dynamics of "transitions to democracy"' (Arthur 2009, p. 324). Lastly, important international experience had been gained through the South African Truth and Reconciliation Commission and the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR). What followed, and what became prominent in Sierra Leone transitional justice, was therefore the presence of both a criminal tribunal and a Truth and Reconciliation Commission (TRC). Whereas the TRC was included in the 1999 Lomé Peace Agreement, the Special Court for Sierra Leone

(SCSL) was first established in 2002 by agreement between the Sierra Leone Government and the UN. Unlike the international criminal tribunals of Rwanda and the former Yugoslavia, the Special Court for Sierra Leone (SCSL) is a hybrid said to straddle the distinction between a national and international court (Cryer 2001, p. 437). The Court was located in Freetown (Cassese 2006), [v] securing a justice process of closer geographical proximity to the affected people than either the Yugoslavia or Rwanda tribunals, which were located in The Hague and Arusha respectively. The Court's judges were appointed by both the UN and the Sierra Leone Government, and consisted of a wide range of nationalities. Whilst the TRC concluded its work in 2004, the Special Court was in operation until 2013. By then, four criminal cases had been heard against a total of nine defendants deemed to be amongst those who bore the 'greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996'(Article 1 Statute for the Special Court of Sierra Leone). The TRC, with its wider mandate, had by contrast heard (and radio broadcast) the public testimony of about 350 people (Stovel 2010, pp. 202, 213). [vi] The four-volume final report, which concluded the Commission's work, was published in 2005 and represented an unprecedented documentation of Sierra Leone history and an important break with the country's 'culture of silence' (Ibid, p. 216). The legacy of the Court includes initiatives such as legacy reports, an archive, a legal information service, and, notably, a Peace Museum established on the Special Court premises after its closing. In providing a 'physical and intellectual space to question the causes of the conflict and to discuss the nation's on-going commitment to preventing future conflicts' the museum aims to promote a culture of peace, reconciliation and human rights (Sierra

Leone Peace Museum Official Website, at http://www.slpeacemuseum.org/ [last

accessed 25 November 2016]).

With its emphasis on architecture, visualisation and civil society engagement,

the museum offers another site for commemoration and storytelling.[vii]

Our case studies draw our attention to the master narratives that have been

driven by specific agents. Notably, while Sierra Leone, unlike Albania, has had more

success with criminal prosecutions, even here, justice has not been achieved.

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Albania

There are legacies left in brick and in image. Walter Benjamin, in 'The Art of

Mechanical Reproduction', observes that architecture has never been idle. Buildings

are appropriated by use and by perception, or as Benjamin asserts, 'rather, by touch

and sight'.

Figure 1. Photo of shopping centre, Tirana, May 2015

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This image is of a shopping centre in Tirana. It has a ground floor of cafes, bars, and restaurants (including the best pizzeria in Tirana). An escalator takes you up to the second floor, where you find numerous bars and a few shops. The shopping centre is called Gallery Tirana, Former Cinema 17 November Complex. This is the closest to a commemorative plaque. While it is true that the venue used to be a cinema, it is less known that the cinema also functioned as a venue for trials carried out during Communist rule in the period 1946-1951 (see Figure 2).[viii] It was during this time that Enver Hoxha consolidated his power over the populace (Aliko 2007, p. 17). The choice of venue was not random. To select the cinema is to appreciate its performative value.

> Performance is innate to humans and ubiquitous in our social interactions. Humans are socialised from childhood…to imitate, to pretend, to role play, to ritualise and to storytell. It is thus a simple transition to act on our performative impulses by developing artistically rendered work that reflects our dramatic nature (Johnny Saldana 2008, as cited in Kisber-Butler 2010, p. 138).

Loudspeakers transmitted the proceedings across the city; the audience comprised the national and international press as well as spectators selected from the streets as well as schools.[ix] These were events not to be missed. They formed an important part of propaganda that supported the nascent regime in its quest to root out the enemy from amongst the society. Despite that fact that no further information about the trials is available to the public entering the shopping centre, the space is far from static. Space does not let us forget. The 'real' meaning of places demonstrates that we have a sense of place and a fixed identity in the middle of this movement and change. It is more constructive to look at space as a progressive sense of place that recognises that the character of the place is linked to places beyond. In other words, space is best understood socially. Our relationship with space is one that can provoke powerful affective responses with their qualities, designs, or aesthetic assemblages (2013). It is human beings' socialisation that sets out the groundwork for the relationship with aspects of the material; it concerns the process of making sense of interactions between time and space. This happens as individuals learn to recognise discrete objects and attach significance to them. This is, in fact, inseparable from the embodied or contained experiences of these materialities (Fehérváry 2013, p. 19).

Michel Foucault and his writings on space are relevant. Foucault has shown how space itself has a history in Western experience; he examines the network of

relations between the sites and society that helps to define the space. In every culture places exist that are formed in the very founding of society; these counter-sites can be understood as 'a kind of effectively enacted utopia in which the real sites that can be found within the culture are simultaneously represented, contested, and inverted, or heterotopias' (Foucault 1984, p. 3). Heterotopia are often linked to slices of time, such as museums or libraries where time never stops building up or topping up. Heterotopias seem to be pure openings but also hide curious exclusions. The way in which spaces relate to other sites assists understanding of materialities by the manner in which they suspect, neutralise, or invert the set of relations that they happen to designate, mirror, or reflect (Fehérváry 2013, p. 19). The inversion of time and space that we find in our appreciation of materialities leads us to a set of moments, or what Bachelard refers to as vertical time; the complex instant that gathers and concentrates many simultaneities at once (Kearney 2008). In this way, our socialisation with materialities can enrich our experience of the law, whereby law has been temporally, or in some other manner limited in reaching justice by addressing egregious violations of human rights. On the other hand, law can be found in the stories that are embedded in materialities. One of the most important stories embedded in the shopping centre's brick is that of Musine Kokalari, one of Albania's most important writers of the 20th century. She was the 'face' of the 1946 Political Dissidents Trial and this specific image is now used as representing the communist terror in contemporary historical discourses. Before discussing the image in question, it is important to address the command that a photograph possesses.
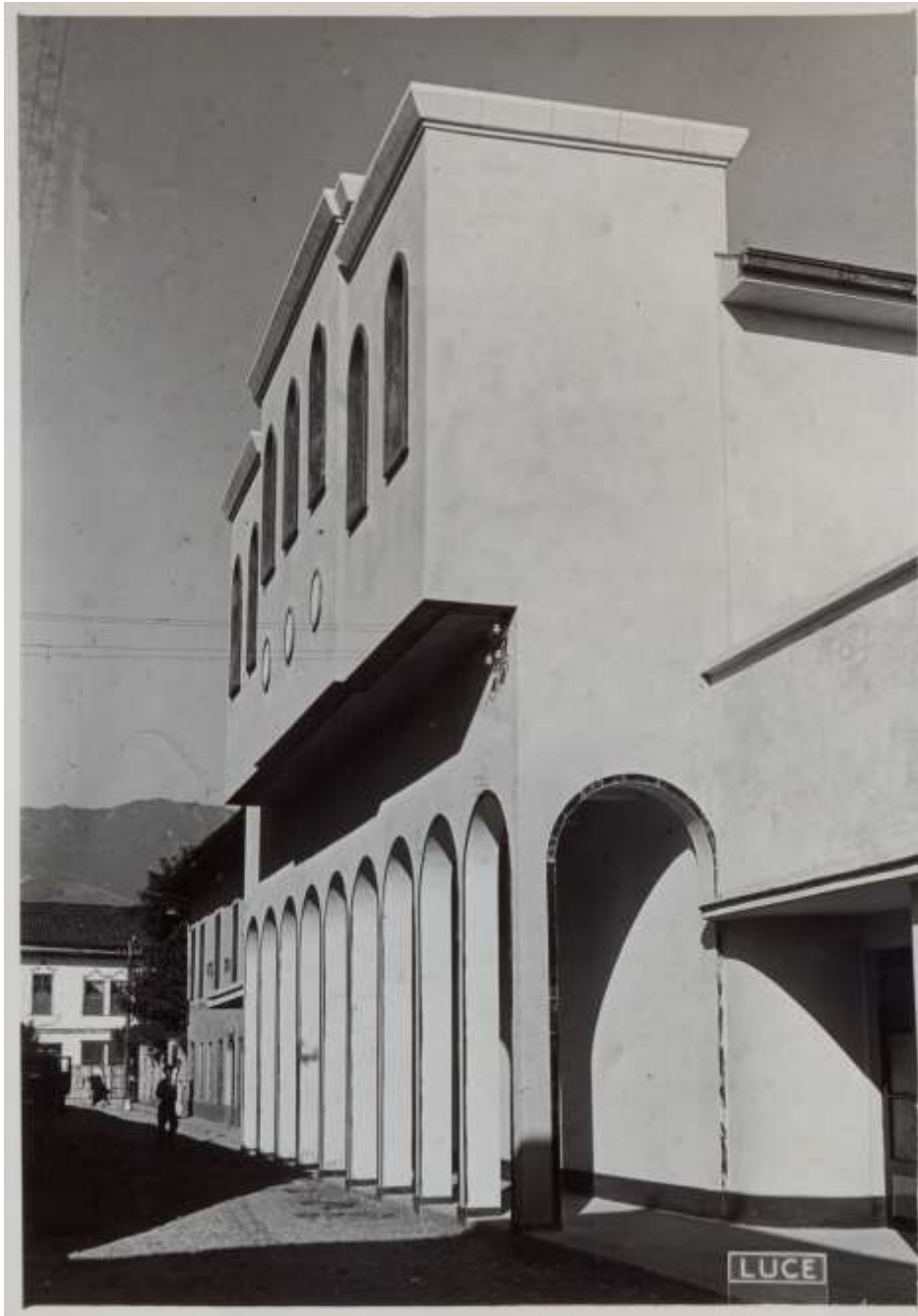
Figure 2. Rex Cinema, Tirana, 1940

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Both Walter Benjamin and Roland Barthes discuss the power of the image. But both

scholars focus on different components of the photography. For the former,

> What is aura? A strange web of time and space: the unique appearance of a distance,
>
> however close at hand…Day by day the need becomes greater to take possession of
>
> this object – from the closest proximity – in an image and the reproduction of the

image. And the reproduction, as it appears in illustrated newspapers and weeklies, is perceptibly different from the original. Uniqueness and duration are as closely entwined in the latter as transience and reproducibility in the former. The removal of the object from its shell, the fragmentation of the aura, is the signature of a perception whose perception for similarity has so grown that by means of reproduction it defeats even the unique (1977).

In his observation, Benjamin emphasises how the uniqueness of the specific image is defeated by means of the repeatable production of the photographic process. Barthes concentrates on what is captured in print and what makes the subject's existence unique.

The power of images has been the subject of important scholarship. In *Camera Lucida*, for example, Barthes distinguishes between that of *studium* or cultural participation in the information or the emotion that the photograph conveys and that of the *punctum* or the surprising, involuntary transfixing element that certain images communicate (2000). Scholars have pointed out that sight is connected to the rest of our senses, making the experience of looking at a photograph something that is synaesthetic (Stoehrel 2013). This, in turn, means that historical reality can be acquitted through representations of the real. Moreover, in the postmodern context, we depend on media narratives and reporting of events to inform our reality. Historical reality can differ from the produced image and create problems. Additionally, a photograph is the trace of something that exists. 'In the photograph we are looking at something that has been and is no longer there […] the *temps ècrasè* ('defeated time') (Barthes 2000). The photograph has a relationship with truth that creates meaning beyond the iconic (Stoehrel 2013, p. 558). Both Benjamin and Barthes address levels of the image and affect that can explain the bodily and sentient experience to become meaningful.

Figure 3. Musine Kokakari at her 1946 trial held at Rex Cinema

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Musine Kokalari's image serves as an example as concerns the meaning of space and the power of images in relation to the limitations of the law. Her life account is one of the most poignant of the 20th century. Hers is a story of ambition (as a writer and political voice), repression (by the dictatorial regime), tragedy (her imprisonment and exile), and legacy (of hope, in keeping her story, and other stories, alive) (Fijalkowski 2015). However, it is important to note that her image is a significant part of the Albanian discourse about its communist past and communist terror, but not as intended. This is because Musine's account is shared by and part of fragmented narratives and diverging discourses. In 1945 Musine was arrested for being the alleged leader of an opposition group. Musine's uncompromising attitude towards an especially aggressive court was her legacy. She was given the floor after the prosecution had rested its case. She read out her defence but was interrupted by the court because it was felt that what she was saying did not relate to the charges. The court sentenced Musine to 20 years' imprisonment in one of the most brutal labour camps in the country. After 16 years of incarceration, Musine was released and

exiled to northern Albania, near to where she spent her imprisonment, and where she was forced to work as a manual labourer. She was kept under surveillance for the rest of her life. When Musine fell ill with cancer, she was refused a hospital bed. Musine died in August 1983. In 1993, the Albanian president declared several Albanians, including Musine Kokalari, to be 'Martyrs for Democracy' (Fijalkowski 2015, pp. 588-589).

Photographs from the trial served an important purpose for the regime and its propaganda (see Figure 3). Musine's image not only forms part of the modern day exhibitions about the country's communist past, but at that time in 1946, her image made the front page of the main broadsheet for two weeks running (Fijalkowski 2015, p. 591).

It is worthwhile reminding ourselves that law is also an important space, or venue, where we return to the past and deal with the past, which might also involve a confrontation with the past (Bell 2014, pp. 5-15). Law derives from and is channelled through the normative practices of society. Encounters with art are also normative encounters. They raise questions about the past and challenge its narratives (Ibid). In fact, art can provide important alternative and complementary solutions in certain places and for specific segments of society. Different aesthetic practices can highlight justice roles and document crimes that legal proceedings are not able to do, for a variety of reasons: this is done in an effort to also restore dignity to the victim (Ibid). A photograph can certainly assume this role. Law becomes jurisgenerative (Bell 2014; Cover 1983), embracing creativity, through these normative encounters. This neglected feature of law can reveal ways in which the image may have a vital part to play in restoring the dignity of victims, as well as playing a vital part in the transition

from dictatorship to democracy (Bell 2014). 'To transform the individual based in a mythic universality, photography succeeds by means of the mask, which ends up inserting itself between the individual photographed *('le spectrum')* and the regard of the spectator of the photograph itself' (Barthes 2000, pp. 71-76). This has particular relevance for discussions concerning the law and its limited success in addressing the injustices of the predecessor regime. Despite the mismanagement of the relevant discourses in Albania, we see how space and image 'speak' and contain a legacy that can be 'unpacked' to contribute to the limitations of the law in addressing the past in a meaningful way; in other words, the urge to 'move on' is part of the relationship between society and materialities.

The engagement with space and images are normative encounters that derive from the wider body politic. The narratives that emerge from the selected examples challenge the discourses about the Albanian communist past and identify the lack of cohesion in storytelling; a cohesion that paradoxically is intact in the materiality itself. The image reactivates its object in the particular situation of the observer. In the absence of an archive imperative that 'tells all', Musine's image becomes a heterotopic site for some segments of Albanian society that acts as an ideal record of the past. As Foucault instructs, heterotopic sites are often created following attempts to construct spaces; they are other sites, an answer to the messiness that surrounds them, a heterotopia of 'compensation' (Foucault 1984, p. 8).

Sierra Leone depicted in film

The use of both a criminal tribunal and a truth and reconciliation commission in addressing past atrocity makes Sierra Leone a prime example of *effective* transitional justice, while at the same time 'one of the most successful examples of peacebuilding

and integration' (Boersch-Supan 2009, p. 5). At the time of writing, the country is in its fifteenth year of sustaining peace and civilian rule.[ix] Remarkable attitudes of reconciliation and forgiveness seem to exemplify Sierra Leone as model of successful transitional justice. Unlike the Albanian experience, Sierra Leone appears timely and efficient in addressing past human rights violations. However, this is only partly due to formal transitional justice mechanisms. Indeed, the Truth and Reconciliation Commission has been widely criticised and is considered a failure in terms of fulfilling its own stated aims (Millar 2012, p. 132), despite the importance of the Commission's final report to history writing and documentation. In local communities however, faith and religion have been crucial facilitators of post-conflict reconciliation and forgiveness (Ibid). Frequent use of traditional idioms, proverbs, and philosophies has also helped position a national narrative of social healing firmly within wider perceptions of cultural identity (Millar 2012; Stovel 2008; Boersch-Supan 2009). Both films considered in this paper support narratives of reconciliation and forgiveness and tie in with these wider approaches. In addition, they uncover interesting complexities and non-linearity on the level of 'affective' justice. As such, they contrast the formal processes facilitated by the Special Court and the Truth and Reconciliation Commission. In particular the voice of former child soldiers, with their paradoxical experience of at the same time being victim and perpetrator, illustrate how *formal* transitional justice measures, even when comprehensive and effectively implemented like in Sierra Leone, are limited by inherent linear assumptions. The use of documentary film can provoke deeper and more complex understandings of 'atrocity and meaningful social and political responses' (Brown and Rafter 2013, p. 1018), which complement transitional justice processes by contributing to the performative dimension of law. Benjamin also writes that for modern man the

representation of reality by the film is incomparably more significant than that of a

painter, since it offers, precisely because of the thoroughgoing permeation of reality

with mechanical equipment, an aspect of reality, which is free of all equipment. And

that is what one is entitled to ask from a work of art (1973, p. 236). He observes,

'[t]he characteristics of the film lie not only in the manner in which man presents

himself to mechanical equipment but also in the manner in which, by means of this

apparatus, man can represent his environment' (Ibid, p. 237).

Two films were chosen for this study. *Cry Freetown* (2000) is a short

documentary by journalist Sorious Samura, based on his recordings from inside

Freetown in the period following the 1999 RUF invasion of the city. The film is 27

minutes long and consists largely of observational footage with Samura's own

narration either recorded over the tape, or recorded during filming. Occasionally,

Samura's narration is supplemented by short interviews. The making of the film

aimed at drawing international attention to the atrocities committed in Sierra Leone's

civil war. Following some instances of violence against journalists working in Sierra

Leone, Samura was one of the few people present who could document what was

happening in a humanitarian crisis that so far had received only modest attention by

the international community (Sorious Samura interview 2001). The violence

documented by *Cry Freetown* is extreme, leaving the viewer with a strong feeling of

discomfort, even shock.[x] Unfiltered documentation of torture, mutilation and killing

opens up for a brutally different engagement with the conflict than that provided by

text alone, in line with the film's function as a cry for help. Contrasting the extreme

violence, is a short sequence featuring child soldiers who were taken out of the

conflict and started the process of returning to a (more) normal life even before the

end of the war. Father Guiseppe Berton and his organisation Family Home Movement

(FHM) embraced the task of rehabilitating child soldiers in the midst of conflict, and *Cry Freetown* introduces the viewer to some of these children towards the end, visualising hope and underlining the cry for help.

Wilma Massucco's documentary *Life does not lose its value: Father Berton and the former child soldiers of Sierra Leone* (2012) examines how life in Sierra Leone looks for a range of people associated with the above-mentioned Father Berton and the Family Home Movement a decade after the war ended. As such, it functions as a continuation of *Cry Freetown* although it is not a formal sequel. Former child soldiers and other war victims, FHM staff, a psychologist and Father Berton all contribute to a complex narrative of hope and healing, as well as one of trauma and lasting suffering. Although the organisation has provided refuge for children in need, the film shows how it does not undo their lived trauma. In a culture built on close-knit social networks and dependency structures, the severing of family ties has left many former child soldiers unable to return to the communities they came from. As discussed above, the RUF was notorious for abducting children to serve in their forces during the war. An important feature of their strategy for initiating these children into military life was to force them to commit atrocities against their own families (Stovel 2010, p. 132). Not only did this create an immense primary trauma obscuring 'all their subsequent emotional perceptions' (Ravena 2012), it also eradicated social and familial bonds making the children dependent on the new social structures of the soldier life.

Drawing on Michelle Brown and Nicole Rafter's (2013, p. 2019-2020) classification of genocide films, the two films chosen for this study fall within the *critical* category, in that they seek to demonstrate the complexity of the Sierra Leone conflict and its aftermath. Notably, *Cry Freetown* sets out a primary iconography of

the civil war, which was later commercialised in the 2006 blockbuster *Blood Diamonds* for which Samura was an on-set adviser (Insight TWI). Both films 'work through' (Brown and Rafter 2013, p. 2020) representational issues of the atrocities they address in that no definitive answers are provided. They are similarly open-ended in that they draw few conclusions about the way forward but limit themselves to articulating hope that possibilities for positive change may still lay ahead. In analysing of the films, different dimensions of representation were identified as relevant for explaining how their performative complexities contrast and complement formal justice measures. These are the representation of time, narrative and perspective, and function as structure for the following discussion.

Representation of time. Having been made twelve years apart, the two films mark different points in chronological time. In addition, they mark different points in the timeline of Sierra Leone transitional justice. As noted above, Sierra Leone transitional justice appear timely and efficient when compared to the anachronistic and incomplete experience of Albania. This is to some extent reflected in the timeliness of the two films and the way they engage with the international community. *Cry Freetown* embodies the initiation of international intervention into the conflict with its 'cry for help' approach. *Life does not lose its value* on the other hand is situated near the endpoint to transitional justice in 2012, a year before the conclusion of the Special Court's mandate. The relevance of time in the chronicling of atrocity lies in its potential to reflect the experience of trauma. A turn to trauma theory offers a useful meeting point between time, performance and the trauma itself.

Time has particular significance in trauma theory, where trauma carries a double meaning as both 'trauma-event' and 'trauma-symptom' (Duggan and Wallis 2011, p. 5). Whilst the trauma-event is something that *has* happened (i.e. existing in

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the past), trauma-symptom refers to the manner in which the trauma-event subsequently manifests itself in the victim (i.e. how the trauma-event continues to exist in present time) (Ibid). As such, the trauma-symptom is inevitably linked to the trauma-event, causing anachronism, *not* timeliness, in the victim's existence. Patrick Duggan and Mick Wallis explain how 'the survivor-sufferer is perpetually caught in a violently schismatic circulation between' a desire to forget, intrusive memories, and the need to understand what has happened (Ibid). In turn, this 'double and repeating wound of event-and-symptom instigates and perpetuates a collapse of narrative time: the survivor-sufferer is unable to live in either past or present' (Ibid).

The trauma of child soldiers in addition embeds the double and conflicting experience of being both victim and perpetrator. Indeed, research demonstrates how former child soldiers on the one hand suffer from exposure to extreme violence (Betancourt et al. 2008), while at the same time, they experience guilt and shame, and struggle with coming to terms with their own previous violent behaviour (Berghs 2011, p. 1405). In Sierra Leonean culture, where both disability and deviant social behaviour are associated with witchcraft, sensitisation of communities and the introduction of western ideas of children as innocent have to some degree helped reintegration of former child soldiers (Ibid). However, numerous obstacles to rehabilitation can be observed. Laura Stovel notes that child soldiers who fought with the RUF had a harder time reintegrating than those from the CDF, who are often considered local 'heroes' (Stovel 2010, pp. 155-156). Susan Shepler, however, argues that the elevated status of children fighting for the CDF resulted in less access to post-war resources as they were considered as 'not needing the same interventions, including education, vocational training, therapy for post-traumatic stress and so on' (2014, p. 134). Dependency relations with commanders, corruption and formal

restriction likewise excluded many child soldiers from demobilisation processes and other re-integrative measures (Stovel 2010, pp. 171-173) A further obstacle to the children's access to post-conflict justice is the common practice of discouraging them from talking about or reflecting on the past (Ibid, pp. 177-178). This tendency is not only imposed by parents and local communities, but also forms part of the policy of reintegration organisations (Ibid). In *Life does not lose its value*, Sisqo a former child soldier explains why he cannot talk about his experiences (Interview with Sisqo by Wilma Massucco in Wilma Massucco 2012):

Sisqo: Ya, this's not possible because I'd be afraid; I can't explain my problem to show guys because it'd be this guy [who] ruined this relation, many people lost their family. If I share my problem to these people, they'd have to see me like [an] ex-combatant so they have to find out that I killed my own family to kill theirs. So that's why sometimes I don't discuss it. I don't explain my problem to everybody

Wilma: And why … and now you have tried to explain your problems to me …

Sisqo: Yes, why?

Wilma: Why?

Sisqo: You are elite people. You came from Italy. If I explain my problem to you maybe you can feel sorry … Understand? So if I may explain my problem to other guys they not …

Wilma: But do you think about, they can't understand? They don't have the feeling?

Sisqo: Yes, not the feeling because …

Wilma: What you're feeling?

Sisqo: I don't feel good because I'm alone.

In both films, space is created for children to tell (parts of) their stories. In this way they tie in with the work of the Truth and Reconciliation Commission, where numerous child soldiers testified in a process that marked 'a remarkable deviation' from the Sierra Leonean 'culture of secrecy' (Stovel 2010, p. 216). However, while TRC hearings involving children were closed to the public, both films create some degree of public performative space of visualised narratives. A question however arises in regards to what type of public space is created. *Who* is the public? Brown and Rafter (2013, p. 1019) remind us that interpreting film inevitably involves the projection of imagined audiences. In both films discussed in this paper, a closer consideration of stakeholders and projected audiences unveils an added dimension of injustice. Notably, *Life does not lose its value* was initiated, funded and produced by Europeans. It therefore inevitably carries the outsider's and, more specifically, a post-colonial, glance. Susan Sontag (2003) notes how a journalistic tendency to illustrate suffering with images from Africa or Asia 'inherits the centuries-old practice of exhibiting exotic – that is, colonized – human beings' (p. 65). This perspective is similarly pertinent in relation to *Cry Freetown*, which was initiated and largely created by a Sierra Leone national but which nonetheless addresses a Western audience. This latter feature is therefore true of both films. *Life does not lose its value* includes a section where one of the former child soldiers is asked what message he would like to send to young boys in Europe. Similarly, the group of child soldiers

interviewed in *Cry Freetown* are asked how they would like 'this country and the

outside world to help'. In addition, both films encourage their audiences to act; *Cry*

Freetown asks for international assistance while *Life does not lose its value*

encourages donations to Father Berton's Family Home Movement. The projection of

a Western audience together with the involvement of Western stakeholders, echo a

post-colonial legacy of global inequality, where African imagery is dominated by war

and disaster (Harding 2003, p. 73). Similar to one of the genocide films in Brown and

Rafter's (2013) study, our films chronicle atrocities 'that happened while the world

chose to look away' and, as such, document 'the contradictions of contemporary

human rights discourses, including the hierarchies of recognition that structure

international justice and policies of intervention, particularly in the context of Africa'

(p. 1025). On a more local and individual level, the two films – by offering a

symbolic image of untold and unperformed trauma narratives – tap into the trauma-

victim's 'need to speak about (testify) and in some way "relive" these events in order

to comprehend them, and so attempt to heal the wounds' (Duggan and Wallis 2011, p.

5).

     Representation of narrative. The narrative is broken in both films, but in

different ways. *Cry Freetown* is visually and spatially chaotic, with footage changing

between extracts from different scenes of violence. The main storyline of the film is

one of pure, unmitigated brutality, with little visual context provided. Additional

explanation is, however, offered through Samura's narration and careful editing of

interviews, which brings the footage together into one, largely coherent history of a

country and community in deep crisis. By contrast, *Life does not lose its value* is

visually and spatially stable in the sense that it consists of interviews mainly taking

place on the premises of the FHM. The film appears to be based on one interview per

interviewee, and subsequently edited to shift between these. This means that the interviewees are wearing the same clothes and are in the same location every time they appear in the film. The visual backdrop is therefore calm and predictable, helping the viewer follow shifts between a range of interviewees and storylines. The stories told on the other hand, are broken and less coherent, albeit loosely organised along themes. The various interview extracts are to some degree independent of each other, and represent discreet 'sub-narratives'. In this way, the film captures complexities and ambivalences across individual experiences of the war and its aftermath. Similarly, by shifting between backward-looking and forward-looking extracts, the narrative perspective of *Life does not lose its value* reflects the non-linearity of the process of 'moving on' from past atrocity and trauma. By ending on a forward-looking note, the main narrative of hope is emphasised. However, it is an ambivalent hope:

> The war, in twelve years, provoked such terrible injury in the network of
> relationships among people, families, mothers, fathers and children that all the
> social rules fade down. Now the rebuilding of a social network that works will
> take a long time. (Robert Ravena 2012)

We suggest that the post-conflict image, either in the form of film or photography, forms part of a poetic of (transitional) justice where the politics of aesthetics allows for the reactivation of past atrocity within a new national narrative. The creator of the image may indeed seek a response that is primarily *affective*, which in the context of violent imagery would be the guilt created in the viewer rather than the transformation of this guilt into action (Ranciére 2009, pp. 87-88). In the words of Susan Sontag (2003) '[l]et the atrocious images haunt us' (p. 102). This resembles processes of stigmatisation found in more traditional transitional justice measures

such as trials, truth commissions, purges and reparations. However, a break with the linear assumptions that are embedded in those approaches, is offered by the affective potential of images to provide viewers with (audio-) visual access to the past, creating a space for them to reinterpret the past in line with their own changing narratives and perspective.

Representation of perspective. Berghs (2011) notes how, in Sierra Leone, the bodily presence of people has come to play important roles as 'sites of protest and memory' (p. 1404). For the war-wounded in Freetown refugee camps, their very presence became embodied narratives of their traumas, resulting in reluctance to leave the camps after the war (Ibid). Child soldiers, although frequently suffering from visible traumas, including branding, amputations and other mutilations, could not easily take part in this victim narrative or the benefits thereof. The child soldiers limited access to justice becomes evident as one considers how important it is for amputees and other wounded to avoid any association with the rebels, lest they want to lose out in the competition for sympathy and resources (Ibid).

The two films open up for new perspectives of child soldiers as sites of protest and memory. As Benjamin observes, the potential for endless amounts of identical copies means that it is not the physical object of the film that is the essence of this form representation. Instead it is that which the film 'recreates', i.e. the 'utopia' of the heterotopic site of this image, that is the unique feature of the film. Benjamin refers to this as 'transitoriness' ((Benjamin 1973, p. 223), where the 'uniqueness' of a real object or narrative can be channelled through the film, reactivating it within the context of the beholder's 'particular situation' (Ibid). As heterotopia, the documentary film mirrors that which *is* no longer. In capturing and reproducing reflections of different realities, it allows its beholders to access the reproduced objects. The layers

of perspective provided by the two films considered in this paper offer another language than the legal one. An 'image produced with a camera is, literally, a trace of something brought before a lens' and therefore contains a superior 'memento of the vanished past and the dear departed' (Sontag 2003, p. 21). The two films as such create space for complex representations of past injustice. However, the type of space created by film is not neutral but mediated through the film's creator. Indeed, as Benjamin notes: 'The audience's identification with the actor [in the film] is really an identification with the camera' (Ibid). In other words, it is not the child soldier or war victim who invites new perspectives into the poetic of Sierra Leone post-conflict justice; the film, the camera, *is* the perspective through which the past can be unpacked and reinterpreted in the present.

Concluding remarks

Our study has drawn attention to the limits of the law in the area of addressing injustices of the past. Our discussion focused on and made connections between the post-dictatorial Albanian and the post-conflict Sierra Leonean experiences. Both case studies saw wide-scale atrocities and attempts made by the respective states to address these past crimes. In the Albanian case study, the discussion began by considering the materialities found in one of the buildings in Tirana, Shopping Complex 17 November, the former site of the Rex Cinema. The building's concrete contains stories that we can 'tap into' because of processes of socialisation that permit us to attach meaning to brick. Benjamin reminds us that brick 'speaks', even in its reproduction because of our interaction with it. The concrete contains narratives about the trials that took place at this venue between 1945-1951. An image of Musine Kokalari, the writer and political dissident, from her 1946 trial accompanies these

narratives. Musine's trial is hugely significant, for past and present, because of her uncompromising attitude at her trial. The narratives emerging from her powerful image are intersubjective and contested, and attest to the power of the image. Recalling Barthes, it is the cultural participation in the information or the emotion that her image conveys and that of the *punctum* that communicates to the viewer her story. Musine's life account, as it is set in present day historical narratives, points to the complexities arising from the archive imperative. The Albanian case study is an example of a contested archive imperative strategy, unfortunately lacking (on the part of the political leadership) a common vision rooted in either a cathartic airing or as a foundation for the polity. This is to the detriment of the Albanian society, a community that is still emerging from the violence and repression of the Hoxha regime.

In the Sierra Leonean case study, two documentary films were examined with a view to unravel their potential in contributing to dealing with the past and moving forward. The discussion considered the films within representational strategies related to time, narrative and perspective, each of which reflects aspects of the intersubjective and complex process of 'moving on' from past atrocity. Although Sierra Leone undertook formidable steps to facilitate peace, justice, and reconciliation at the end of the 1991-2002 Civil War, formal transitional justice mechanisms are limited in their inherent linearity and therefore need to be complemented by other approaches. The two films considered for this study, uncovered important meeting points between storytelling, visualisation and performance that link this art form to the aesthetic dimension of law and demonstrate its potential to overcome some of law's inherent limitations. The analysis of the films illustrated how 'moving on' from past atrocity is not a tick box exercise of official transitional justice initiatives, but instead an on-

going process that takes place within and between individuals and groups. In the efficacy of Sierra Leone transitional justice, certain voices and memories nonetheless remained silent. Works of art, such as the two films, create alternative, heterotopic spaces for these stories to be performed and archived.

Various measures concerning past injustices were 'unleashed' on these societies, each resulting in contrasting narratives and shared experiences of (mis)managed story telling. Paulina's shadow has not disappeared. Its key features, containing the victim's paradoxical situation where empowerment and silence collide, forces us to ask ourselves whether we are approaching the question of 'moving on' in the appropriate manner. In the final scene of Dorfman's play, Paulina, the victim, and Roberto, the perpetrator, exchange glances during a performance of their favourite piece of music, Schubert's 'Death and the Maiden'. This particular piece of music acts as a connection between them. Equally, it represents their past, present and future, and it symbolises the changing nature of power relations between both characters.

Where our two case studies meet – in terms of the limits of the law - is best exemplified by Foucault's heterotopia. The sites and counter-sites are grounded on a sharp division between spaces, with the heterotopic space acting as a sort of all-inclusive interior with its own reality within a complex and problematic context (Fehérváry 2013, p. 234). Our exploration of measures seeking affective justice, through aesthetics, examined space, image and film. These aesthetic encounters are powerful commentaries about the norms that bind society. Like law, they derive from the wider body politic and are an expression of the experiences with the law. It is the network of relations between the sites and society that helps to define the space and temporalities associated with the law. It reminds us that our perceptions of the law

might be changing, and modern law as a study in itself is actually a study of many visions of law (Douglas-Scott 2013, pp. 18-21). The use of art enables us to shift our perceptions of the law and its capabilities of addressing injustice. Cultural images and artworks themselves challenge traditional legal orthodox approaches and narratives about injustice.

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[*] No new data were created in this study.

[**] Senior Lecturer-in-Law, Lancaster University Law School, United Kingdom. Figure 2 (Rex Cinema) is from the Istituto Luce collection at the Albanian State Archives in Tirana, 2934, R2/86. Figure 3 (Musine Kokalari at her 1946 Trial) is from the collection of images from Special Courts archival holdings at the Albanian Telegraphic Agency in Tirana.

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[i] For considerations of domestic accountability in post-dictatorial and post-conflict societies, relating to criminal justice measures see Agata Fijalkowski and Raluca Grosescu, eds., *Transitional Criminal Justice in Post-Dictatorial and Post-Conflict Societies* (Cambridge: Intersntia, 2015; for considerations of domestic accountability in post-dictatorial societies and alternative measures of dealing with the past or judicial accountability, see Lavinia Stan, ed., *Transitional Justice in Eastern Europe and Former Soviet Union* (London: Routledge, 2008); Monika Nalepa, *Skeletons in the Closet: Transitional Justice in Post-Communist Europe* (Cambridge: Cambridge University Press, 2010); Roman David, *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland* (Philadelphia, PA: University of Pennsylvania Press, 2011); Mónika Serrano and Veselin Popovski, eds., *After Oppression: Transitional Justice in Latin America and Eastern Europe* (New York: United Nations University Press, 2012). The role of the constitutional courts in transitional justice is addressed by Adam Czarnota, Martin Krygier and Wojciech Sadurski, eds., *Rethinking the Rule of Law after Communism* (Budapest, CEU Press, 2005); Wojciech Sadurski, *Rights Before Courts: A Study of Constitutional Courts in Postcommunist States of Central and Eastern Europe* (Dordrecht: Springer, 2005. Other works in the area analyse the politics of memory applied through historical commissions and museums, such as Barahona de Brito, Carmen Gonzales-Enriquez and Paloma Aguilar, eds., *The Politics of Memory: Transitional Justice in Democratizing Societies* (Oxford: Oxford University Press, 2001); James Mark, *The Unfinished Revolution. Making Sense of the Communist Past in Central-Eastern Europe* (New Haven and London: Yale University Press, 2010).

[ii] In fact, the ISCC's Director wrote in 2011 about the lack of political will to criminally prosecute the perpetrators of judicial crimes, many of whom have gone on to pursue secondary careers in education and several of whom have been confronted by their victims on the streets of Tirana. Agron Tufa, 'Në mungesë një tribunali'(In the Absence of a Tribunal), *Panorama Online*, 26 August 2011.

[iii] The commission boasts several controversial members bar one.

[iv] Sierra Leone was under British rule from 1808 (Freetown only) and 1896 until 1961, see Hirsch, J. L. *Sierra Leone: Diamonds and the Struggle for Democracy* (Colorado: Lynne Rienner Publishers, Inc., 2001) 113.

[v] It should be noted, however, that for security reasons the Charles Taylor trial took place in The Hague.

[vi] The public testimonies were chosen from among 7706 written statements that were submitted to the commission.

[vii] In addition to a copy of the Special Court's legacy archives, the museum houses collections of artefacts, photographs and war stories, it is connected to a 'Memorial Garden' by a 'memorial Peace Bridge', and works closely with civil society organisations and civil groups across Sierra Leone.

viii There were six key trials, namely: Special trial held in Tirana (March-April 1945)(so-called Albanian Nuremberg, presided over by Koci Xoxe): in this trial 60 people from the ranks of the so-called 'Great Albanian Heads' were judged and sentenced on charges of treason and collaboration with the enemy (i.e. Italy and Germany).; Special trial (June-August 1946): the first trial of Albanian political dissidents and members of the opposition groups, 'The Unified Democratic Albanian Movement'; 'Groups of Resistance', 'Groups of Legalists', and the Group of Social-Democrats; Special trial against the so-called 'Saboteurs of the Maliq Marshes' (November 1946): trial of engineers.; 'Harry Fultz American Technical Institute Affair' (1946-1947): trial of 'lackeys and spies of the Anglo-American imperialists'.; Special Trial against the Deputies of Parliament or the so-called 'Second Opposition' (September-October 1947): trial of all former members of the National Liberation Front.; Special Trial the Soviet Embassy Bomb, Tirana (February 1951).

ix Since the end of the war, Sierra Leone has had three general elections, one of which included a change of presidential power.

x The violence includes three instances of people being murdered on camera, and several instances of torture, which we are told ended in death.